

Embryos frozen in political limbo

India's ban on commercial surrogacy leaves foreign couples facing the possibility of a long legal battle to win back their embryos, created at a cost of thousands of dollars, **Rebecca Bundhun, Foreign Correspondent, reports**

MUMBAI // Hundreds of embryos belonging to overseas patients are trapped in India after a ban on commercial surrogacy, with couples fighting to get them out of the country.

Commercial surrogacy was previously legal for foreigners in India, where it was also competitively priced, and patients flocked to the country for the service.

But in October last year the government banned the practice for foreigners amid ethical questions, including the possible exploitation of impoverished women who carry the children.

India also prohibited the import of embryos for surrogacy. But the rules on exporting embryos from India remain murky.

"There is no express provision for the ban of exports," said Radhika Thapar Bahl, a lawyer who specialises in surrogacy law.

But "the status quo is that parents are not able to export because the government has not come out with any procedure" for such a process.

"We're stuck with embryos from foreigners that we can't export and we can't put in a surrogate," said Duru Shah, scientific director of Gynaecworld, a clinic in Mumbai that offered commercial surrogacy to foreign patients.

"It's a very strange situation but it exists," said Dr Shah, who is also the senior vice president of the Indian Society for Assisted Reproduction and sits on the ethics committee of the Interna-

tional Federation of Gynaecology and Obstetrics.

"The government should allow the embryos to be exported back or allow them to be utilised and bring some sort of closure. They can't keep sitting on embryos."

One American couple whose embryos were created in the US and brought to India shortly before the commercial surrogacy ban have taken their case to the Bombay high court.

They are arguing that returning their embryos to the US does not amount to export because they were not created in India.

Last month, a judge in that case ordered India's director general of foreign trade to make a decision on whether to allow the transfer of the embryos. The next hearing is tomorrow.

Dr Shah said her clinic had about 80 frozen embryos belonging to foreigners, including patients from the US, UK and Australia.

The patients, who would have each spent thousands of dollars on creating the embryos, want to either take them home or send them to another country where they can legally go through with surrogacy treatment.

Briana Benn-Mirandi and Daniel Mirandi, from Connecticut in the US, decided last year to have a second child through commercial surrogacy in India after a first pregnancy almost cost Mrs Benn-Mirandi her life.

But days before they were to fly



Many of India's fertilisation laboratories have embryos trapped by a government ban on commercial surrogacy. Subhash Sharma for The National

to India for the IVF stage of the process, their clinic told them the government had banned commercial surrogacy for foreigners.

Despite this the couple, who had already obtained visas and booked flights and accommodation, felt that travelling to India was their last hope to have another child.

They decided to go ahead with their plans, hoping that after creating the embryos they might be permitted to complete the surrogacy process.

But after the IVF stage at the Ankanksha Infertility Clinic in Anand, in Gujarat state, they were unable to convince authorities to let them proceed further. The couple was forced to return to the US without their embryos.

The process has cost them about US\$10,000 (Dh36,729) so far. But the price they have paid goes beyond money.

"Our embryos are trapped in India," said Mrs Benn-Mirandi. "The whole situation shattered my family, including our par-

ents." She said she had "no faith in the Indian government, in policies and procedures that should exist or in any sense of justice over there".

The embryos "could very easily be destroyed, and they know there is nothing whatsoever we can do about it", she said.

Even if the couple retrieve their embryos, Mrs Benn-Mirandi said they would not be able to afford surrogacy in the US, nor were they considering options in other countries.

Dr Nayna Patel, who runs the Ankanksha clinic, said she had several requests from foreign patients who want to take their embryos out of India.

The clinic has embryos belonging to 186 foreign couples and is seeking permission from state authorities to export them, she said.

But Ms Bahl said the issue was unlikely to be resolved until the federal government clarified the rules.